

REMARKS

Claims 1-4, 6, 10, 16-19, and 21-34 are pending. In accordance with the forgoing, claims 1, 27, and 31 have been amended. In the previous response, the Applicant articulated distinctions between the pending claims and the cited reference thus indicating that the reference was insufficient to anticipate the claims. The content of the previous response is incorporated by reference in its entirety. The Examiner has replied by indicating that Kim (US 2002/0183637) "inherently" teaches that which is claimed. Applicant respectfully traverses the rejections and requests a withdrawal of all rejections as set forth below.

Claims 1, 2, 6-8, 16, 17, 21, 22, 25-28, 31 and 32 stand rejected under 35 U.S.C. 102(b) as being anticipated by Kim. Claim 1 is directed to a method of generating a template in an implantable medical device that includes "generating a plurality of cross-matches between the predetermined number of events, the generating the plurality of cross-matches comprising matching a first event of the predetermined number of events to a second event of the predetermined number of events to compute a cross-match between the first event of the predetermined number of events and the second event of the predetermined number of events; and determining whether a predetermined number of the generated cross-matches are within a predetermined cross-match threshold, wherein the template is generated from events of the predetermined number of events corresponding to the cross-matches determined to be within the cross-match threshold."

Kim teaches a method of generating a normal cardiac rhythm template. In the previous response, the Applicant submitted that Kim does not teach generating cross-matches between a predetermined number of events identified as first selected events. The Examiner submits that Kim inherently teaches generating cross-matches since NSR events are compared to beats that represent the current template, inherently also NSR beats. The equation referred to by the Examiner in paragraph 105 is a comparison of new template features and newly detected template beats performed to confirm new template features.

As such, the comparison referred to by the Examiner is clearly a comparison for confirming a new template and not for selecting events used for generating the template. Kim teaches that the new template beats used for confirming the template need not be saved, and as such, the new template beats are not used for generating a template should the new template not be confirmed by the comparison described in paragraph 105. Applicant maintains that Kim fails to teach or suggest generating cross-matches between the predetermined number of events and generating the template from events of the predetermined number of events corresponding to the cross-matches determined to be within the cross-match threshold. The notion that comparing new beats to a template that has already been generated by averaging 16 beats in order to confirm the template is generating cross-matches between the predetermined number of events identified as selected events for use in generating the template is an incorrect reading of the claim language. Accordingly, for at least this reason, Applicant respectfully maintains the rejection is improper and withdrawal of the rejection is respectfully requested.

Claims 3, 4, 9, 10, 18, 19, 23, 24, 29, 30, 33 and 34 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kim. As discussed above, Kim does not teach, suggest, or imply generating a plurality of cross-matches between the predetermined number of events identified as first selected events and generating the template from events of the predetermined number of events corresponding to the cross-matches determined to be within a cross-match threshold. Accordingly, withdrawal of the rejection is respectfully requested for the reasons set forth above.

Claims 1-6, 11, 12, 27-30 and 31-33 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 and 20-23 of copending Application No. 10/826618. Applicants acknowledge this provisional rejection and will address the rejection once claims have been allowed.

Applicant respectfully asserts that the present claims are in condition for allowance. Withdrawal of the instant rejections and issuance of a Notice of Allowance is respectfully requested.

Respectfully submitted,

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Date

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